

## REMARKS

Claims 1-20 are pending in the present Application. No claims have been canceled, amended, or added, leaving Claims 1-20 for consideration upon entry of the present Response. A listing of the claims is provided herein for the convenience of the Examiner. Reconsideration and allowance of the claims are respectfully requested in view of the following remarks.

### Claim Rejections Under 35 U.S.C. § 103(a)

Claims 1-7 and 11-20 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Parthasarathy et al (U.S. Patent No. 6,225,391; hereinafter the “Parthasarathy”) in view of Aral et al (U.S. Publication No. 2005/0158537; hereinafter the “Aral”). Applicants respectfully traverse this rejection.

Parthasarathy generally discloses compounds of Formula I  $R^2_{4-z}Si[(Q)_x A(CH_2)_y H]_z$  or of Formula II  $[H(CH_2)_y A(Q)_x]_b SiR^1_{3-b} SiR^1_{3-b}[(Q)_x A(CH_2)_y H]_b$ , used as nonvolatile in situ precursors to anti-fog agents for packaging films and a novel process of making such films (Abstract). In particular, these nonvolatile in situ precursors are used in polyolefin compositions to obtain anti-fog properties (Col. 2, lines 42-48).

Aral generally discloses antimicrobial and antifogging polymeric films with preferable A/C/E structure useful for food, medicine and agriculture applications as well as for other general packaging and non-traditional special applications (Abstract).

Independent Claim 1, from which Claims 2-7 and 11-15 ultimately depend, is directed to a method for making a fog resistant thermoplastic article comprising exposing an aromatic thermoplastic polymer article to an aqueous environment sufficient to result in a fog resistant aromatic thermoplastic polymer article, wherein the fog resistant aromatic thermoplastic polymer article has a greater fog resistance when compared to the aromatic thermoplastic polymer article prior to exposing. Independent Claims 16-17 are both directed to a method of making a fog resistant aromatic thermoplastic article via exposure to an aqueous environment.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a *prima facie* case of obviousness, i.e., that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, contain some suggestion or

incentive that would have motivated the skilled artisan to modify a reference or combined references; and that the proposed modification of the prior art had a reasonable expectation of success, determined from the vantage point of the skilled artisan at the time the invention was made. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

The Examiner has rejected Claims 1-7 and 11-20 based on a combination of elements disclosed in Parthasarathy and Aral. The Examiner has alleged that it would have been obvious to apply Parthasarathy's method for making a fog resistant thermoplastic article to the few disclosed aromatic materials of Aral (Office Action dated 3/22/2006, item 3 on pages 2-3). Applicants respectfully disagree.

First, the Applicants believe that there would be no motivation or suggestion to combine Parthasarathy and Aral. Secondly, the references cannot be properly modified or combined as there was no reasonable expectation of success to use the process of Parthasarathy with the material of Aral. Each argument will be discussed in turn below.

Parthasarathy does disclose a method of exposing a polyolefin film to water or atmospheric humidity to obtain an anti-fog film (Col. 6 line 61 - Col. 7 line 15). It is stated that the anti-fog siloxane precursor compounds present in the polyolefin film are hydrolyzed to provide the anti-fog properties to the film. *Id.* However, Parthasarathy fails to disclose an aromatic thermoplastic polymer article as required by the instant claims.

Aral discloses in the background section that certain efforts had been made to obtain antifogging polystyrene/alkyl phenyl polyethylene glycol ether films by using certain antifogging additives (Aral, paragraph [0006]). However, Aral does not disclose any method of exposing a polymer film (either aromatic or non-aromatic) to water or humidity to obtain an anti-fogging film. Moreover, it is noted that the additives used to impart an anti-fogging property to the listed aromatic polymers polystyrene/alkyl phenyl polyethylene glycol ether are not similar at all to the anti-fog siloxane precursor compounds of Parthasarathy. Indeed, Aral fails to teach or suggest siloxane compounds used as an anti-fog agent in aromatic thermoplastic polymers. Aral was

primarily concerned with obtaining polyolefin based films having both antimicrobial and anti-fogging properties (Aral, paragraph [0026], emphasis added).

There would be no motivation or suggestion to combine Parthasarathy and Aral to arrive at the instant claims as Aral and Parthasarathy involve different processes of obtaining anti-fogging polymer films. When, as here, the §103 rejection was based on selective combination of the prior art references to allegedly render a subsequent invention obvious, there must be some reason for the combination other than the hindsight gleaned from the invention itself. Stated in another way, it is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch* 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992).

There is no motivation or suggestion from the combination of Parthasarathy and Aral to use the aromatic polymers of Aral with the process of Parthasarathy as the Aral aromatic polymers do not contain an anti-fog siloxane or siloxane precursor. Furthermore, there is no suggestion that the anti-fog siloxane precursor, suitable in Parthasarathy’s polyolefin materials, could be used in an aromatic thermoplastic polymer. Such a suggestion is absent from both references. The only reason proffered by Parthasarathy to use the aqueous exposure step is the presence of the anti-fog siloxane precursor in the polyolefin film (Col. 6 line 61 - Col. 7 line 15). Accordingly, the references do not lead a skilled artisan to combine the process of exposing a film to water or atmospheric humidity to obtain an anti-fog film with the film material being an aromatic polymer. Accordingly, the Applicants respectfully request reconsideration and removal of the rejections.

Moreover, there would be no reasonable expectation of success to combine the aromatic polymer films of Aral with the process of Parthasarathy of exposing polyolefin films to water or humidity to obtain anti-fogging films. The requirement for a determination of obviousness is that both the suggestion and the expectation of success must be founded in the prior art, not in applicant’s disclosure. An Examiner thus cannot base a determination of obviousness on what a skilled person in the art might try or find obvious to try. Rather, the proper test requires determining what the prior art would have led a skilled person to do, with a reasonable expectation of success.

Polyolefin films and aromatic films have very different chemical and physical properties. A skilled artisan would easily understand that a method or additive that renders a non-aromatic polymer anti-fogging would not necessarily render an aromatic polymer anti-fogging. For example, as is discussed in Paragraph [0004] of the instant Application, known additives that are useful to impart anti-fog properties to polyethylene and poly(vinyl chloride) can be unsuitable for polycarbonate and other aromatic thermoplastic polymers. Issues of stability and incompatibility are to be considered when trying to apply additives useful for polyethylene to higher glass transition temperature polymers or structurally different polymers such as aromatic polycarbonates. As Parthasarathy is directed to polyolefin films, one small class of non-aromatic polymers, and fails to discuss aromatic polymers at all, there would be no reasonable expectation of success of combining the aromatic polymer of Aral with Parthasarathy's method.

Thus, independent Claims 1, 16-17, and dependent Claims 2-7 and 11-15 would not have been rendered obvious over Parthasarathy in view of Aral. Applicants respectfully request reconsideration and removal of the § 103(a) rejections against Claims 1-7 and 11-20.

Claims 8-10 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over Parthasarathy in view of Aral further in view of Govindan (U.S. Patent No. 5,187,214; hereinafter the "Govindan"). Applicants respectfully traverse this rejection.

Govindan generally discloses certain quaternary ammonium alkyl benzene sulfonate salts and certain quaternary ammonium alkane sulfonate salts, which are useful as antistatic agents for synthetic polymer articles (Abstract).

Claims 8-10 all ultimately depend from independent Claim 1. Govindan does not cure the deficiency of Parthasarathy and Aral. As presented above, there was no suggestion or motivation to combine Parthasarathy and Aral. Govindan does not provide the missing suggestion or motivation to combine or modify the references. Particularly, Govindan does not teach a method of exposing a polymer film to water or atmospheric humidity to obtain an anti-fog film. Furthermore, it does not teach making an aromatic polymer anti-fogging. Indeed, Govindan is not related to obtaining anti-fogging polymer films. Thus, it also fails to provide any suggestion or motivation to combine Parthasarathy and Aral.

Therefore, Applicants respectfully request reconsideration and removal of the § 103(a) rejections against Claims 8-10.

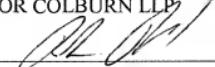
It is believed that the foregoing remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance are requested.

If there are any additional charges with respect to this Response or otherwise, please charge them to Deposit Account No. 07-0893.

Respectfully submitted,

CANTOR COLBURN LLP /

By \_\_\_\_\_

  
Roberta L. Pelletier  
Registration No. 46,372

Yong Zhao  
Registration No. 57,014

Date: April 27, 2006  
CANTOR COLBURN LLP  
55 Griffin Road South  
Bloomfield, CT 06002  
Telephone (860) 286-2929  
Facsimile (860) 286-0115  
Customer No.: 43,248